

**IN THE UNITED STATES BANKRUPTCY COURT**

**FOR THE EASTERN DISTRICT OF PENNSYLVANIA (PHILADELPHIA)**

|                                |   |                             |
|--------------------------------|---|-----------------------------|
| <b>IN RE:</b>                  | : |                             |
| <b>KENNETH A VOGEL</b>         | : | <b>BK. No. 16-11405-elf</b> |
| <b>JENNIFER M BROCCO-VOGEL</b> | : |                             |
| <b>Debtors</b>                 | : | <b>Chapter No. 13</b>       |
|                                | : |                             |
| <b>WELLS FARGO BANK, NA</b>    | : |                             |
| <b>Movant</b>                  | : |                             |
| <b>v.</b>                      | : |                             |
| <b>KENNETH A VOGEL</b>         | : | <b>11 U.S.C. §362</b>       |
| <b>JENNIFER M BROCCO-VOGEL</b> | : |                             |
| <b>Respondents</b>             | : |                             |
|                                | : |                             |

**MOTION OF WELLS FARGO BANK, NA FOR RELIEF FROM AUTOMATIC STAY  
UNDER §362**

Movant, by its attorneys, PHELAN HALLINAN DIAMOND & JONES, LLP, hereby requests a termination of Automatic Stay and leave to foreclose on its mortgage on real property owned by KENNETH A. VOGEL and JENNIFER VOGEL.

1. Movant is **WELLS FARGO BANK, NA.**

2. Debtor(s) executed a promissory note secured by a mortgage or deed of trust.

The promissory note is either made payable to Creditor or has been duly indorsed. Creditor, directly or through an agent, has possession of the promissory note. Creditor is the original mortgagee or beneficiary or the assignee of the mortgage or deed of trust.

3. KENNETH A. VOGEL and JENNIFER VOGEL are the owners of the premises located at **2761 SOUTH 17TH STREET, PHILADELPHIA, PA 19145 NKA 2761 S 17TH STREET, PHILADELPHIA, PA 19145-4503**, hereinafter known as the mortgaged premises.

4. Movant is the holder of a mortgage on the mortgaged premises. The terms of the Debt Agreement were amended by a loan modification agreement entered into by and between Wells Fargo Bank, NA and Debtor(s) dated May 27, 2014 (the "Loan Modification Agreement").

5. Debtors' failure to tender monthly payments in a manner consistent with the terms of the Mortgage and Note result in a lack of adequate protection.

6. Movant has instituted foreclosure proceedings on the mortgage because of

7. The foreclosure proceedings instituted were stayed by the filing of the instant Chapter 13 Petition.

8. As of November 20, 2017, Debtors have failed to tender post-petition mortgage payments for the months of September 2017 through November 2017. The monthly payment amount for the months of September 2017 through November 2017 is \$1,308.69, for a total amount due of \$3,926.07. The next payment is due on or before December 1, 2017 in the amount of \$1,308.69. Under the terms of the Note and Mortgage, Debtors have a continuing obligation to remain current post-petition and failure to do so results in a lack of adequate protection to Movant.

9. Movant has cause to have the Automatic Stay terminated as to permit Movant to complete foreclosure on its mortgage.

10. Movant specifically requests permission from the Honorable Court to communicate with Debtors and Debtors' counsel to the extent necessary to comply with applicable nonbankruptcy law.

11. Movant requests that Federal Rule of Bankruptcy Procedure 3002.1 be waived.

**WHEREFORE**, Movant respectfully requests that this Court enter an Order;

a. Modifying the Automatic Stay under Section 362 with respect to **2761 SOUTH 17TH STREET, PHILADELPHIA, PA 19145 NKA 2761 S 17TH STREET, PHILADELPHIA, PA 19145-4503** (as more fully set forth in the legal description attached to the Mortgage of record granted against the Premises), as to allow Movant, its successors and assignees, to proceed with its rights under the terms of said Mortgage; and

b. Movant specifically requests permission from this Honorable Court to communicate with Debtors and Debtors' counsel to the extent necessary to comply with applicable nonbankruptcy law; and

c. Waiving Federal Rule of Bankruptcy Procedure 3002.1; and

d. Granting any other relief that this Court deems equitable and just.

/s/ Thomas Song, Esquire

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December 1, 2017